

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 11/28/05		Item Number: <u>A-1</u>	
AGENDA ITEM: Consideration of: 1) Adoption of an Urgency Ordinance Amending Chapter 17.330 of the Culver City Municipal Code Pertaining to Processing and Permitting of Signs; and 2) Introduction of an Ordinance Amending Chapter 17.330 of the Culver City Municipal Code Pertaining to Processing and Permitting of Signs			
Contact Person/Dept.: Carol Schwab and Heather Iker/City Attorney		Phone Number: (310) 253-5660	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Public Notification: Master Notification List on 11/23/05			
Department Approval: Carol Schwab, City Attorney		CAO Approval: Martin Cole for Jerry Fulwood 11/21/05	
City Controller Approval: N/A			
<u>RECOMMENDATION:</u> That the City Council consider: 1. The adoption of an Urgency Ordinance amending Chapter 17.330 of the Culver City Municipal Code ("CCMC") pertaining to the processing and permitting of signs. (This action requires four affirmative votes of the Council.); and 2. The introduction of an Ordinance (non-urgency) amending Chapter 17.330 of the CCMC pertaining to the processing and permitting of signs. If adopted, the Urgency Ordinance will take effect immediately. The non-urgency Ordinance is substantively identical to the Urgency Ordinance, and is recommended as a back-up to the Urgency Ordinance. <u>BACKGROUND:</u> The City has been involved in extensive federal court litigation over several provisions of the CCMC regulating signs. The first case was brought by plaintiff Lynne Davidson and was formally titled <i>Lynne Davidson v. City of Culver City</i> , United States Central District Court, Case No. CV02-2566 (" <i>Davidson I</i> "). The matter was assigned to the Hon. Judge Gary Feess. Judge Feess issued a ruling on April 10, 2003, finding that Section 13.02.200 of Title 13 of the Culver City Municipal Code was constitutional, but that certain language in Section 37-78.D.4b of Title 17 was unconstitutionally vague.			

City of Culver City, California
City Council Agenda Item Report

The City Council also formed an Ad Hoc Committee to examine numerous sign issues in Culver City and make recommendations to the City Council. The Ad Hoc Committee was supported by City staff and met on several occasions before issuing its final report and recommendations to the City Council on October 13, 2003. A minority report was also issued.

The City took several additional steps in light of the court's ruling and the recommendations of the Ad Hoc Committee, including adoption of Ordinance No. 2003-005 to amend Chapter 13 pertaining to signs in the public right-of-way and Ordinance No. 2005-002 to amend Section 37-78.D.4b of Title 17 pertaining to the placement of signs, banners, and pennants in the public right-of-way.

Lynne Davidson and Sandra Kallander subsequently filed another federal lawsuit titled *Lynne Davidson, etc. v. City of Culver City*, United States Central District Court, Case No. CV04-2220 ("*Davidson II*") to again challenge the City's sign provisions. The matter was again assigned to Judge Feess, who dismissed the case and awarded the City \$100,000 in attorneys' fees for a frivolous suit. The plaintiffs appealed to the Ninth Circuit Court of Appeals, and oral argument was held on October 18, 2005.

The City has been diligently evaluating the impact of its policies on free speech activities throughout the City. As part of that effort, the City adopted a Courtyard Policy relating to Free Speech Guidelines on May 16, 2005. The City has been at work in reviewing the totality of the various policies and provisions within Culver City that have First Amendment implications, all of which deal with weighty constitutional issues. The City has recently completed revisions to its entire zoning ordinance, but these revisions only renumbered and reorganized the City's Sign Code. The City's initial plan was to conduct a thorough substantive revision of the entire sign code at a later date. Recent events have led the City to conclude that some of these substantive revisions cannot wait and require this urgency measure. The urgency is based in part on the following:

First, some billboard companies have deliberately engaged in the unpermitted and/or illegal erection of billboards in surrounding and nearby jurisdictions. This practice is documented in *City of Riverside v. Valley Outdoor*, (2005 WL 2233617 (Cal. App. 4 Dist.)), and is at issue in the related case of *Valley Outdoor, Inc. v. City of Riverside*, 04-55029, which is currently pending before the same panel of the Ninth Circuit Court of Appeal that is reviewing the appeal in *Davidson II*. The practice of illegally erecting billboards without permits and in violation of local ordinances was also documented in a recent article published in the *Los Angeles Times*. See Ted Rohrlich, Big Sign Firm Accused of Corruption, *Los Angeles Times*, October 23, 2005, at A1.

City of Culver City, California
City Council Agenda Item Report

Second, billboard companies have recently challenged sign ordinances in several jurisdictions in southern California, as demonstrated by the decisions of the United States District Court in *Horizon Outdoor, LLC v. City of Industry*, 228 F.Supp.2d 1113 (C.D. Cal. 2002); *Horizon Outdoor Media Group, Inc. v. City of Beaumont*, 374 F.Supp.2d 881 (C.D. Cal. 2005); *Covenant Media of Cal., L.L.C. v. City of Huntington Park*, 377 F.Supp.2d 828 (C.D. Cal. 2005); *Get Outdoors II, LLC v. City of San Diego*, 381 F.Supp.2d 1250 (S.D. Cal. 2005); and *Get Outdoors II, L.L.C. v. City of Lemon Grove*, 378 F.Supp.2d 1232 (S.D. Cal. 2005).

Due to these developments, these revisions to the Sign Code are presented on an urgency basis in order for the City to update and revise its sign ordinance and balance the City's needs to promote the public's health, safety, and welfare with the important free speech rights of individuals and organizations.

DISCUSSION:

The proposed ordinance is necessary in order to refine and update the City's Sign Code. The amendments include the addition of permit processing and enforcement procedures, the addition of various findings, and the refinement of code language. It is important to note that this ordinance does not allow for any signs previously precluded under the existing code, nor does it preclude any signs previously allowed under the existing Sign Code. These refinements are necessary because the City has important planning and other governmental interests in the regulation of signs both within and outside the public right-of-way.

The City's governmental interests include:

- (1) Protecting the free speech rights of individuals and organizations;
- (2) Regulating signs in a constitutional manner;
- (3) Preserving the interest of community aesthetics;
- (4) Preserving vehicular, bicyclists and pedestrian traffic safety;
- (5) Protecting and preserving property values;
- (6) Improving the visual environment of the City; and
- (7) Ensuring the overall quality of life for persons living, working, and visiting within Culver City.

Without a revised and effective sign ordinance, residential, commercial, industrial and other sections of the City can quickly deteriorate, with detrimental consequences to social, environmental, and economic values.

City of Culver City, California
City Council Agenda Item Report

The new elements of the ordinance include:

- A. New Findings (pps. 1-4). The City has added the findings found in Section 1 to better explain its governmental interest in the regulation of signs and reaffirm its ban of off site signs, which has been in place since 1995.
- B. Refinement of Language (pps. 4-8). These provisions clarify and refine the City's content-neutral policy and reaffirm that the City is not and has not been concerned with the actual text of any on site or off site sign.
- C. Timing and Processing of Sign Decisions/Appeals (pps. 8-14). These provisions provide a comprehensive and clear process for submitting applications, decision-making, and appeals.

FISCAL ANALYSIS:

There is no fiscal impact.

ATTACHMENTS:

- 1. Urgency Ordinance Amending Chapter 17.330 pertaining to processing and permitting of signs.
- 2. Ordinance (non-urgency) Amending Chapter 17.330 pertaining to processing and permitting of signs.
- 3. Current Chapter 17.330.
- 4. Cases and article cited in the Proposed Ordinances will be on file with the City Clerk and available for public inspection. Individual copies will be provided to all Council Members.

MOTION:

That the City Council:

- 1. Adopt an Urgency Ordinance Amending Chapter 17.330 of the Culver City Municipal Code pertaining to processing and permitting of signs; and
- 2. Introduce an Ordinance (Non-Urgency) Amending Chapter 17.330 of the Culver City Municipal Code pertaining to processing and permitting of signs.